IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 32/2007

(Om Prakash V/s State of Rajasthan)

Date of Order : 11/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. J.S.Choudhary, for the petitioner.
Mr. Ashok Upadhyay, P.P.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 19.12.2006 passed by Sessions Judge, Churu (for short 'the revisional court' hereinafter) in Cr. Revision No.23/2006, whereby the revision petition filed by the petitioner against the order dated 23.3.2006 passed by Judicial Magistrate, Sardar Sahar (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the orders passed by the courts below.

The only point argued by learned counsel for the

petitioner is that the offence under Section 324 IPC cannot be made out since injured Vidhya and Ganga both suffered single injury which is abrasion and simple in nature by blunt object.

I have carefully gone through the injury report of injured Vidhya and Ganga. Injured Vidhya is alleged to have suffered abraded bruise 2x2 cm simple in nature by blunt object, so is the case of injured Ganga, she also suffered abraded bruise 3x3 cm simple in nature by blunt object. Thus, none of the injuries is caused by sharp edged weapon.

Learned counsel for the petitioner has relied on a decision of Hon'ble Supreme Court in Shakeel Ahmed Vs. State, Delhi (2004) 10 SCC 103 wherein in a case of teeth bite grievous injury, the Hon'ble Supreme Court held that injuries, no doubt are grievous as the phalanx of the index finger has been snipped off. But the allegation is that the assailant had bitten the index finger and caused the said injury. Teeth of a human being cannot be considered as deadly weapon as per the description of deadly weapon enumerated under Section 326 IPC. Hence the offence cannot escalate to Section 326. It can best remain only at Section 325 IPC and on these premises, the conviction from Section 326 IPC was altered to Section 325 IPC r/w Section 34 IPC.

In the instant case, the injuries have been caused by teeth bite, they have been termed by blunt object by doctor who

examined the injured and simple in nature and therefore, at best the offence under Section 323 IPC can be made out but not the offence under Section 324 IPC. So far as other offences under Sections 341, 354, 323 IPC are concerned, no challenge has been made.

In this view of the matter, the misc. petition is allowed. The order impugned framing charge dated 23.3.2006 passed by the trial court to the extent framing charge for the offence under Section 324 IPC is set aside, however, the order framing charge for the offences under Sections 341, 323 and 354 IPC is maintained.

(H.R.PANWAR),J.

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